

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member Maze

February 21, 2007

~~An act to amend Section 51205 of the Government Code, relating to land use.~~ *An act to add and repeal Section 51256.4 of the Government Code, relating to land use.*

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Maze. Land use: ~~Williamson Act.~~ *agricultural land: local agricultural and open-space conservation plan.*

~~Under the Williamson Act, land devoted to certain specified uses may be included within an agricultural preserve, as specified a city or county may establish an agricultural preserve of not less than 100 acres and may enter into a contract with a landowner to limit the use of agricultural land, as specified.~~

This bill would authorize Tulare County and any city within Tulare County, until January 1, 2018, to establish a local agricultural and open-space conservation plan, as specified. This bill would require any local agricultural and open-space conservation plan to be approved by the Director of the Department of Conservation, prior to its adoption. This bill would also make legislative findings and declarations as to the necessity of a special statute. ~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 51256.4 is added to the Government Code,*
2 *to read:*

3 51256.4. (a) *It is the intent of the Legislature that local*
4 *governments be permitted to adopt local agricultural and*
5 *open-space conservation plans, applicable to specified planning*
6 *areas, for the permanent protection of agricultural land and open*
7 *space through a variety of protection measures, including*
8 *agricultural and open-space easements, fee ownership by nonprofit*
9 *conservation entities, or other mechanisms. To further this end, it*
10 *is the intent of the Legislature to establish a pilot project in Tulare*
11 *County. It is also the intent of the Legislature that any local*
12 *agricultural and open-space conservation plan adopted by Tulare*
13 *County or any city located within Tulare County have the overall*
14 *goal of conserving agricultural and open-space uses while*
15 *maintaining a level of flexibility in the manner in which these goals*
16 *are to be accomplished over time.*

17 (b) *As used in this section, unless the context indicates*
18 *otherwise:*

19 (1) *“Department” means the Department of Conservation.*

20 (2) *“Director” means the Director of Conservation.*

21 (3) *“Local agricultural and open-space conservation plan”*
22 *means a plan that is applicable to a specified planning area for*
23 *the permanent protection of agricultural land and open space.*

24 (c) *The board of supervisors of Tulare County or the legislative*
25 *body of any city located within Tulare County may adopt a local*
26 *agricultural and open-space conservation plan.*

27 (d) *A local agricultural and open-space conservation plan may*
28 *utilize agricultural and open-space easements, title ownership by*
29 *nonprofit conservation entities, or other appropriate means of*
30 *protection.*

31 (e) *A local agricultural and open-space conservation plan shall*
32 *include a statement of the overall goal of the local agricultural*
33 *and open-space conservation plan, which shall include, but is not*
34 *limited to, both of the following:*

35 (1) *The overall goal of conserving agricultural use of the land*
36 *as defined in subdivision (b) of Section 51201.*

37 (2) *The overall goal of conserving open-space use of the land*
38 *as defined in subdivision (o) of Section 51201.*

1 (f) (1) A local agricultural and open-space conservation plan
2 shall include an identification of the land to be protected. Any land
3 identified for protection may include land outside the jurisdictional
4 boundaries of the adopting agency, but shall be within five miles
5 of the adopting agency's sphere of influence, as defined in the
6 Cortese-Knox-Hertzberg Local Government Reorganization Act
7 of 2000 (Division 3 (commencing with Section 56000) of Title 5
8 of the Government Code). If the land, or any portion of the land,
9 falls within another agency's sphere of influence, the adopting
10 agency shall obtain the affected agency's written consent. If a
11 willing seller has been established for the land identified for
12 protection, or any portion thereof, the statement of the land
13 identified for protection shall clearly identify that land.

14 (2) A local agricultural and open-space conservation plan shall
15 require the county and the local agency formation commission to
16 be informed of the adopting agency's proposed acquisition of a
17 conservation interest on land outside the adopting agency's
18 jurisdictional boundary prior to the acquisition of that land.

19 (g) (1) A local agricultural and open-space conservation plan
20 shall specify the types of protections to be pursued on the lands
21 within the identified areas, which shall be reasonably calculated
22 to provide a permanent benefit to the conservation of agricultural
23 land and open space in the local agricultural and open-space
24 conservation plan area.

25 (2) A local agricultural and open-space conservation plan may
26 provide for the protection of land through various means including,
27 but not limited to, the following:

28 (A) Permanent agricultural conservation easements consistent
29 with the criteria set forth in Section 10251 of the Public Resources
30 Code.

31 (B) The establishment of permanent conservation easements
32 that require the land be left in open-space uses as defined in
33 subdivision (o) of Section 51201.

34 (C) Through acquisition of title ownership by nonprofit
35 conservation entities.

36 (3) Any means used to protect land under this section shall not
37 permit uses that would be prohibited under a Williamson Act
38 contract.

39 (h) (1) If a local agricultural and open-space conservation plan
40 is funded by fees from Williamson Act contract cancellations, the

1 local agricultural and open-space conservation plan shall require
2 that at least one acre of land has been protected for every five
3 acres of land for which a contract cancellation has been approved.

4 (2) Notwithstanding paragraph (1) of this subdivision, upon a
5 showing that the land protected by the local agricultural and
6 open-space conservation plan is of higher conservation value than
7 the canceled land, a local agricultural and open-space
8 conservation plan may provide for the protection of less than one
9 acre of land for every acre of land for which a contract
10 cancellation has been approved for which fees were distributed
11 for use by the local agricultural and open-space conservation plan.

12 (3) The use of funds from sources other than contract
13 cancellation fees to acquire conservation easements or other
14 interests shall not affect the calculation of the ratios required in
15 paragraphs (1) and (2) of this subdivision.

16 (i) (1) A local agricultural and open-space conservation plan
17 enterprise account shall be established, as part of the local
18 agricultural and open-space conservation plan, to receive
19 Williamson Act cancellation funds. Funds from the local
20 agricultural and open-space conservation plan enterprise account
21 shall only be used for local agricultural and open-space
22 conservation plan purposes.

23 (2) The local agricultural and open-space conservation plan
24 enterprise account shall be structured to earn interest, receive
25 advances and repay any advances, received from future income.

26 (3) The administering agency shall perform regular and
27 customary audits on the local agricultural and open-space
28 conservation plan enterprise account.

29 (4) The department may audit the local agricultural and
30 open-space conservation plan enterprise account.

31 (5) If the department determines that cancellation funds received
32 by a local agricultural and open-space conservation plan
33 enterprise account have not been permanently encumbered for an
34 approved local agricultural and open-space conservation plan
35 purpose within five years of receipt, the department shall require
36 those funds to be paid to the Treasurer.

37 (j) Any conservation easement interests acquired as part of a
38 local agricultural and open-space conservation plan shall only be
39 acquired through willing-seller negotiations, and shall not be
40 acquired through the use of the power of eminent domain.

1 (k) (1) Prior to implementing a local agricultural and
2 open-space conservation plan, the administering agency shall
3 submit the plan to the department for review.

4 (2) The director shall, within 90 days of the submission of a
5 local agricultural and open-space conservation plan, determine
6 whether the local agricultural and open-space conservation plan
7 meets the requirements of this section. If the director determines
8 that the local agricultural and open-space conservation plan meets
9 the criteria, the director shall certify the local agricultural and
10 open-space conservation plan by notifying the county treasurer
11 and the county board of supervisors in writing of this approval.

12 (l) Notwithstanding subdivisions (d) and (e) of Section 51283,
13 when cancellation fees required by Section 51283 are collected
14 in relation to the cancellation of contracts on lands within the
15 jurisdiction of a city or the county and the city or county has
16 adopted and received certification of a local agricultural and
17 open-space conservation plan pursuant to this section, all of the
18 collected fees shall be transmitted by the county treasurer to the
19 respective city or county treasurer to be deposited in the local
20 agricultural and open-space conservation plan enterprise account.

21 (m) The board or council shall not consider whether a local
22 agricultural and open-space conservation plan exists as a factor
23 in determining whether to approve a cancellation request pursuant
24 to Section 51282.

25 (n) An agricultural conservation easement established within
26 the county pursuant to Section 51256 on or after July 1, 2006, may
27 be canceled at the request of the property owner if all of the
28 consideration paid to the property owner for the agricultural
29 conservation easement is transferred to the local agricultural and
30 open-space conservation plan enterprise account, and shall be
31 subject to the requirements of subdivision (i) of this section.

32 (o) This section shall remain in effect only until January 1, 2008,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2008, deletes or extends that date.

35 SEC. 2. The Legislature finds and declares that there are
36 unique circumstances concerning the need for ensuring the
37 conservation of agricultural land in Tulare County necessitating
38 the enactment of the procedures contained in this act. It is therefore
39 declared that a general law cannot be made applicable within the

1 *meaning of Section 16 of Article IV of the Constitution, and that*
2 *the enactment of this act as a special law is necessary.*

3 ~~SECTION 1. Section 51205 of the Government Code is~~
4 ~~amended to read:~~

5 ~~51205. Notwithstanding any provisions of this chapter to the~~
6 ~~contrary, land devoted to recreational use, or land within a scenic~~
7 ~~highway corridor, a wildlife habitat area, a saltpond, a managed~~
8 ~~wetland area, or a submerged area may be included within an~~
9 ~~agricultural preserve pursuant to this chapter. When that land is~~
10 ~~included within an agricultural preserve, the city or county that it~~
11 ~~is situated in may contract with the owner for the purpose of~~
12 ~~restricting the land to recreational or open space use and uses~~
13 ~~compatible therewith in the same manner as provided in this~~
14 ~~chapter for land devoted to agricultural use. For purposes of this~~
15 ~~section, where the term “agricultural land” is used in this chapter,~~
16 ~~it shall be deemed to include land devoted to recreational use and~~
17 ~~land within a scenic highway corridor, a wildlife habitat area, a~~
18 ~~saltpond, a managed wetland area, or a submerged area, and where~~
19 ~~the term “agricultural use” is used in this chapter, it shall be~~
20 ~~deemed to include recreational and open space use.~~